

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ANGELA NAILS,

Plaintiff

v.

AMGUARD INSURANCE CO., *et al.*,

Defendants

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3:23-CV-557
(JUDGE MARIANI)

ORDER

AND NOW, THIS 18th DAY OF AUGUST, 2023, upon *de novo* review of

Magistrate Judge Martin Carlson's Report & Recommendation ("R&R") (Doc. 21), Plaintiff's

Objections thereto (Docs. 22, 23),¹ and all other relevant documents, **IT IS HEREBY**

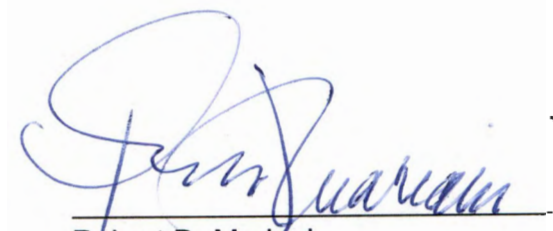
ORDERED THAT:

1. The R&R (Doc. 21) is **ADOPTED** for the reasons stated therein.
2. Plaintiff Angela Nails' Objections (Docs. 22, 23) are **OVERRULED**.²

¹ Following the issuance of two R&Rs by Judge Carlson (Docs. 20, 21) on July 10, 2023, Plaintiff filed two almost identical documents which, liberally construed, may be considered as objections to portions of the R&Rs. Recognizing Plaintiff's *pro se* status, the Court will consider these filings as objections and perform a *de novo* review of Judge Carlson's R&Rs.

² Plaintiff acknowledges that Defendants Privette and Hide-N-Seek Towing are residents of Georgia, as is she, and requests that these two defendants therefore be dismissed without prejudice. (See Docs. 22, 23). However, she asserts that the action should not be dismissed against Defendants North American Risk Services ("NARS") and AmGUARD Insurance Company as neither Defendant is a citizen of Georgia. (*Id.*). For the reasons addressed by Judge Carlson in his first-issued R&R, Nails cannot maintain a direct action against AmGUARD under Pennsylvania law and AmGUARD must be dismissed from this action (see Doc. 20). Further, regardless of Defendant NARS' citizenship, the undisputed fact that Defendant Privette and Hide-N-Seek Towing are citizens of Georgia destroys the complete diversity statutory requirement of 28 U.S.C. § 1332(a)(1). Finally, even if subject matter jurisdiction existed in this case as a result of the dismissal of the two non-diverse defendants, a review of Plaintiff's Complaint (Doc.

3. The Motion to Dismiss, filed by Defendants North American Risk Services, Jerry Kenneth Privette, and Hide-N-Seek Towing, LLC (Doc. 16), is **GRANTED**.
4. The claims against Defendants North American Risk Services, Jerry Kenneth Privette, and Hide-N-Seek Towing, LLC are **DISMISSED WITHOUT PREJUDICE**.



Robert D. Mariani
United States District Judge

1) reveals that, with the exception of naming NARS as a defendant on the first page of the Complaint, NARS is never again referenced in the Complaint and there are no factual allegations or claims set forth against NARS. Plaintiff has thus failed to state a claim upon which relief can be granted against this Defendant, see Fed.R.Civ.P. 12(b)(6), and dismissal is appropriate.